DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

INDUSTRIAL HEMP RULES FOR MARIHUANA BUSINESSES

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or ~~45a(6)~~ **45a(9)** of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing ~~A~~**a**ct, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.1001, R 420.1002, and R 420.1003 are amended and R 420.1003a and R 420.1003b are added to the Michigan Administrative Code**,** as follows:

R 420.1001 Definitions.

Rule 1. (1) As used in these rules:

(a) "Agency" means the marijuana regulatory agency.

(b) "Broker" means that term as defined in section 2 of the industrial hemp research and development act, MCL 286.842.

(c) "Department" means the department of licensing and regulatory affairs.

(d) "Edible marihuana product" means any marihuana-infused product containing marihuana that is intended for human consumption in a manner other than inhalation. Edible marijuana product does not include marihuana-infused products that are intended for topical application.

(~~d~~**e**) "Grower" means that term as defined in section ~~2 of the industrial hemp research and development act, MCL 286.842~~ **103 of the industrial hemp growers act, MCL 333.29103**.

(~~e~~**f**) "Handle" means that term as defined in section 2 of the industrial hemp research and development act, MCL 286.842.

(~~f~~**g**) "Industrial hemp" means that term as defined in section ~~2 of the industrial hemp research and development act, MCL 286.842~~ **3 of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27953**.

(h) "Industrial hemp growers act" means the industrial hemp growers act, 2020 PA 220, MCL 333.29101 to MCL 333.29801.

(~~g~~**i**) "Industrial hemp research and development act" means the industrial hemp research and development act, 2014 PA 547, MCL 286.841 to 286.859.

(~~h~~**j**) "Laboratory" means a safety compliance facility licensed under the medical marihuana facilities licensing act or a marihuana safety compliance facility licensed under the Michigan ~~regulation and taxation of marihuana act~~ **Regulation and Taxation of Marihuana Act**, or both.

(~~i~~**k**) "Marihuana processor" means that term as defined in section 3 of the Michigan ~~regulation and taxation of marihuana act~~ **Regulation and Taxation of Marihuana Act**, MCL 333.27953.

(~~j~~**l**) "Marihuana safety compliance facility" means that term as defined in section 3 of the Michigan ~~regulation and taxation of marihuana act~~ **Regulation and Taxation of Marihuana Act**, MCL 333.27953.

(~~k~~**m**) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

~~(l) "Market" means that term as defined in section 2 of the industrial hemp research and development act, MCL 286.842.~~

(~~m~~**n**) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(~~n~~**o**) "Michigan ~~m~~**M**edical ~~m~~**M**arihuana ~~a~~**A**ct" means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(~~o~~**p**) "Michigan ~~r~~**R**egulation and ~~t~~**T**axation of ~~m~~**M**arihuana ~~a~~**A**ct" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(~~p~~**q**) "Process" means that term as defined in section 2 of the industrial hemp research and development act, MCL 286.842.

(~~q~~**r**) "Processor" means a facility licensed to operate under section 502 of the medical marihuana facilities licensing act, MCL 333.27502, and these rules.

(~~r~~**s**) "Producer" means a processor licensed under the medical marihuana facilities licensing act or a marihuana processor licensed under the Michigan ~~regulation and taxation of marihuana act~~ **Regulation and Taxation of Marihuana Act**, or both.

(~~s~~**t**) "**These** ~~R~~**r**ules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan ~~regulation and taxation of marihuana act~~ **Regulation and Taxation of Marihuana Act**, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(~~t~~**u**) "Safety compliance facility" means a facility licensed to operate under section 505 of the medical marihuana facilities licensing act, MCL 333.27505, and these rules.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

R 420.1002 Testing industrial hemp.

Rule 2. (1) A laboratory may perform tests on industrial hemp ~~product~~ **products** as required under the industrial hemp research and development act and any associated rules promulgated by the ~~Michigan~~ department of agriculture and rural development.

(2) A laboratory may perform all tests required or requested in the industrial hemp research and development act and any associated rules promulgated by the ~~Michigan~~ department of agriculture and rural development.

(3) A laboratory shall document all testing performed on industrial hemp products and ~~shall~~ make those records available to the agency upon request.

(4) A laboratory shall maintain industrial hemp product samples separate from any marihuana product samples at all times.

(5) A laboratory may obtain samples of industrial hemp for testing pursuant to the industrial hemp research and development act and any associated rules promulgated by the ~~Michigan~~ department of agriculture and rural development.

(6) A laboratory must report test results as required under the industrial hemp research and development act and any associated rules promulgated by the ~~Michigan~~ department of agriculture and rural development.

(7) A laboratory must not transfer or sell any industrial hemp product obtained for testing to any other facility other than the licensee from whom the sample was obtained.

~~(8) A laboratory shall enter all transactions, current inventory, and other information into the statewide monitoring system as required by the industrial hemp research and development act and any associated rules promulgated by the Michigan department of agriculture and rural development.~~

R 420.1003 Processing industrial hemp.

Rule 3. (1) A producer may handle, process, market, or broker industrial hemp in compliance with the industrial hemp research and development act and any associated rules promulgated by the ~~Michigan~~ department of agriculture and rural development.

(2) A producer may obtain industrial hemp to process as allowed under the industrial hemp research and development act and any associated rules promulgated by the ~~Michigan~~ department of agriculture and rural development.

(3) A producer shall always store industrial hemp separately from marihuana products and in compliance with these rules relating to storage of marihuana products promulgated by the agency.

(4) A producer shall document all industrial hemp obtained by the facility and ~~shall~~ make those records available to the agency upon request.

~~(5) A producer shall enter all transactions, current inventory, and other information into the statewide monitoring system as required by the industrial hemp research and development act and any associated rules promulgated by the Michigan department of agriculture and rural development.~~

R 420.1003a Conversion of industrial hemp concentrate to marihuana concentrate.

Rule 3a. (1) A producer may obtain industrial hemp concentrate to convert it into marihuana concentrate only with the written approval of the agency.

(2) A producer may convert industrial hemp concentrate into marihuana concentrate only with the written approval of the agency.

(3) To obtain agency approval to undertake the conversion of industrial hemp concentrate to marihuana concentrate, the producer shall comply with all of the following:

(a) Provide a written and complete plan of intent and research proposal to the agency, that includes, but is not limited to, all of the following:

(i) The complete standard operating procedure for the conversion process.

(ii) A comprehensive list of all constituents used to create the synthesized marihuana concentrate.

(iii) Certificates of analysis for all constituents.

(iv) An explanation of known possible contaminants.

(v) A written plan for identification of all chemical constituents of the substance and all byproducts identified during testing.

(vi) A written plan for the identification of the contents of waste products and a written plan for their disposal.

(b) Engage a laboratory that is able to perform all required testing.

(c) Notify the agency within 3 business days of a change of laboratories and obtain approval to engage with a different laboratory than originally named.

(d) Demonstrate the conversion process no fewer than 5 times. The demonstration of the conversion process must comply with all of the following:

(i) Utilize a different batch of industrial hemp concentrate for each demonstration.

(ii) Provide documentation of the results of each demonstration to the agency that includes, at a minimum, both of the following:

(A) Passing results for all required safety compliance tests.

(B) Identification of all chemical constituents of the substance and all byproducts.

(iii) Obtain the same results of each conversion batch.

(iv) Demonstrate the same conversion rate for each batch.

(e) Have each batch of resulting synthesized marihuana concentrate tested by the laboratory and have all of the following identified:

(i) Any constituents that remain unsynthesized after the conversion process listed as required in subdivision (a)(ii) of this subrule.

(ii) All contaminants listed as required in subdivision (a)(iv) of this subrule.

(iii) All byproducts listed as required in subdivision (a)(v) of this subrule.

(iv) All waste products listed as required in subdivision (a)(vi) of this subrule.

(v) All unidentified peaks observed during the testing required to identify the items listed in paragraphs (i) to (iv) of this subdivision.

(f) Submit a new plan of intent and research proposal if any modification is made to the conversion process, including any chemical used in the conversion process.

(g) Submit a new plan of intent and research proposal if unable to demonstrate the conversion process in compliance with subdivision (d) of this subrule.

(h) Submit documentation that the product in final form, including all constituents, except for THC, is safe for human consumption.

(i) Require synthesized marihuana concentrate created as part of the demonstration process to be destroyed and be prohibited from being sold or transferred.

(4) A producer that obtains industrial hemp concentrate under subrule (1) of this rule shall do all of the following:

(a) Retain, and provide to the agency upon request, documentation that the industrial hemp concentrate was produced from industrial hemp that was grown pursuant to any applicable state and federal law.

(b) Retain, and provide to the agency upon request, documentation showing the location of the industrial hemp grower.

(c) Identify and record the industrial hemp concentrate in the statewide monitoring system.

(d) Immediately identify, record, and tag the industrial hemp concentrate in the statewide monitoring system.

(e) Not possess industrial hemp concentrate that is not identified and recorded in the statewide monitoring system.

(f) Not possess industrial hemp concentrate without a statewide monitoring system label affixed to it.

(g) Have the industrial hemp concentrate sampled pursuant to R 420.304 for all safety compliance tests under R 420. 305 before being converted.

(5) Upon conversion into marihuana concentrate, the producer shall immediately identify, record, and tag the marihuana concentrate in the statewide monitoring system.

(6) A producer shall have synthesized marihuana concentrate sampled pursuant to R 420.304 for all safety compliance tests under R 420.305 and additional analytes identified by the agency based upon review of the record of formulation.

(7) Synthesized marihuana concentrate that fails safety compliance testing must be destroyed within 90 calendar days unless approval to remediate the concentrate is obtained from the agency.

(8) Synthesized marihuana concentrate must not be sold or transferred until passing test results for all required safety compliance tests are entered into the statewide monitoring system and the producer has clearly identified and provided documentation of the identification of all chemical constituents of the product and all byproducts.

(9) Synthesized marihuana concentrate, produced by a producer pursuant to subrule (2) of this rule, that has passing test results entered into the statewide monitoring system may be used to create a marihuana-infused product or an edible marihuana product.

(10) Marihuana-infused products and edible marihuana products containing marihuana concentrate synthesized under this rule must be sampled pursuant to R 420.304 for all safety compliance tests under R 420.305.

(11) Marihuana-infused products and edible marihuana products containing marihuana concentrate synthesized under this rule must not be sold or transferred until passing test results for all required safety compliance tests are entered into the statewide monitoring system.

(12) Marihuana-infused products and edible marihuana products containing marihuana concentrate synthesized under this rule must be labeled as synthetic using the same or larger font than the product name.

(13) Marihuana-infused products and edible marihuana products containing marihuana concentrate synthesized under this rule must also be labeled pursuant to these rules.

(14) A producer approved to synthesize marihuana concentrate under this rule shall comply with and pay for random audits of the products created using the synthesized marihuana concentrate from marihuana sales locations. Audits may include verification of the chemical constituents of the product and all byproducts as initially identified as well as verification of the amount of those chemical constituents in the synthesized marihuana concentrate product.

(15) If any unknowns are identified during the audit process that have not been previously identified, the producer must submit a new plan of intent and research proposal and all product in the associated production batch must be placed on administrative hold and destroyed within 90 calendar days.

R 420.1003b Maximum concentrations of THC for industrial hemp products intended for human or animal consumption.

Rule 3b. (1) The maximum THC concentration for an edible product is 1 milligram per serving in the form in which it is intended for sale to a consumer. An edible product must

not have more than 10 milligrams of THC per container in the form in which it is intended for sale to a consumer.

(2) The maximum THC concentration for marihuana-infused product that is consumed in a means other than by inhalation is 1 milligram per serving in the form in which it is intended for sale to a consumer. A marihuana- infused product in this category must not have more than 20 milligrams of THC per container in the form in which it is intended for sale to a consumer.

(3) The maximum THC concentration for any other marihuana-infused product meant for human or animal consumption not specifically listed is 1 milligram per serving in the form in which it is intended for sale to a consumer. These products must not have more than 10 milligrams per container in the form in which it is intended for sale to a consumer.